

**OCTOBER 3, 2005**  
**RULE PROPOSALS**  
**COMMUNITY AFFAIRS**  
**DIVISION OF FIRE SAFETY**

**Re-proposed New Rule: N.J.A.C. 5:70-2.23**  
**Uniform Fire Code**

**Key Boxes**

Authorized By: Susan Bass Levin, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-198.14.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-369.

Submit comments by December 2, 2005 to:

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The agency proposal follows:

**Summary**

At 36 N.J.R. 5285(a), the Department of Community Affairs proposed a new rule, N.J.A.C. 5:70-2.23, and an amendment to N.J.A.C. 5:70-1.5 establishing specifications for key boxes that municipalities, by ordinance, could require owners to install on buildings, structures, or premises. The Department received a number of comments regarding the originally proposed new rule and amendment including comments regarding (1) exemptions for sites occupied 24 hours a day, (2) security and firefighter safety issues at some properties owned by public utilities, (3) the necessity for anti-tampering switches and central dispatch control, (4) the premises that should be subject to the rules, (5) the need to address replacement keys, keypads and card locks, (6) the regulation of security gates, and (7) the necessity for specifying the make as well as the model of key boxes. Additionally, the Department received comments regarding (1) the authority for the rulemaking, (2) the economic impact of the proposed rule, (3) the responsibility for program management, (4) coordination with existing key box ordinances, (5) Fire Safety Commission review of the proposed rules, (6) State Mandate, State Pay, and (7) the ability of municipalities to mold systems to their particular needs. As a result of these comments and after further review, the Department has decided to do a reproposal largely mirroring the provisions of Section 2 of P.L. 2003, c. 211 (N.J.S.A. 52:27D-198.14). Consequently, the re-proposed new rule would only address key boxes for non-standardized fire service elevator recall keys. Although the Department acknowledges its authority, pursuant to the Uniform Fire Safety Act, P.L. 1983, c. 383 (N.J.S.A. 52:27D-192 et seq.), to require key boxes in other circumstances, the Department will do so only after input from the Fire Safety Commission.

The re-proposed new rule would differ significantly from the earlier proposed new rule. The provisions regarding anti-tampering switches and central dispatch control would be eliminated as well as the exemption for sites occupied 24 hours a day. The Department would not specify the

person or persons responsible for program management, but it would require that provisions be in place to safeguard the system. Consequently, the Department has withdrawn the “fire company” definition. At this time, the Department’s intent is to allow municipalities maximum flexibility with regard to existing or new key box ordinances that regulate more than non-standardized elevator recall keys. When preparing or amending these ordinances, however, municipal officials should address, to the extent feasibly possible, the many concerns brought to the Department’s attention as a result of the initial proposal. These include (1) Homeland Security and firefighter safety issues in some public utility uses, (2) the types of premises that would be subject to the ordinance, (3) replacement keys when locks are changed, (4) the regulation of premises with security gates, keypads and card locks, and (5) the make of key boxes. For this reproposal, State Mandate, State Pay would not be an issue since the repropose new rule would be applicable to the public and the private sector. The repropose new rule is also being promulgated as a result of a revision to existing law.

Since a 60-day comment period is provided for this repropose new rule, it is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The repropose new rule would have a positive social impact since it would improve emergency service personnel use of elevators during emergencies.

### **Economic Impact**

If a municipality elected to enact a key box ordinance, one key box or cabinet could cost an owner less than \$ 600.00 with additional costs for anti-tampering switches. The total costs would vary depending on the size of the owner’s operation and the complexity of the key box system owners wish to install and municipal officials wish to require. If a fire company, fire department or a municipality decided to purchase a central dispatch controlled system, it could cost thousands of dollars. The total cost would be dependent on the size of the purchasing entity’s operation as well as the complexity of the purchased system. Uniform Fire Safety Act dedicated penalty monies could be used to purchase these systems.

### **Federal Standards Statement**

A Federal standards analysis is not necessary since the repropose rule is not being repropose under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State law that incorporates or refers to Federal law, standards, or requirements.

### **Jobs Impact**

The Department does not anticipate that this repropose new rule would have any impact on the number of jobs in the State.

### **Agriculture Industry Impact**

The Department does not anticipate that this repropose new rule would have any significant impact on the agriculture industry; however, some farm buildings, structures or premises may be required, by municipal ordinance, to install key boxes.

### **Regulatory Flexibility Analysis**

The repropose new rule would not impose any significant reporting or recordkeeping burden upon

“small businesses” as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.; however, if a municipality enacted an ordinance, fire companies and fire departments that are “small businesses” would have to document the use of master keys. Additionally, the repropose new rule would impose compliance requirements on property owners, fire companies, and fire departments that would qualify as “small businesses.” Property owners would have to install and maintain key boxes, and fire companies and fire departments would have to establish procedures for safeguarding the key box system. Compliance costs are discussed in the Economic Impact above. No professional services would be required to comply with the repropose new rule; however, some entities may elect to contract with alarm or other contractors to install key boxes. Since the repropose new rule is intended to protect public safety, it would be inappropriate to require a lesser standard of compliance from such “small business” entities.

### **Smart Growth Impact**

The Department does not anticipate that the repropose new rule would have any impact on the achievement of smart growth in the State or the implementation of the State Development and Redevelopment Plan.

**Full text** of the repropose new rule follows:

#### **5:70-2.23 Elevator key lock boxes**

(a) A municipality, by ordinance, may require the installation of a key box in each building located in the municipality that has an elevator.

1. A building that has elevators with standardized fire service keys, in accordance with the Uniform Construction Code, N.J.A.C. 5:23, shall be exempt from the provisions of this section.

(b) An owner shall place a building’s non-standardized fire service elevator keys in the required key box.

(c) Key boxes shall be installed at locations that are readily accessible to fire fighting officials.

(d) Firefighting officials with access to key box master keys pursuant to this section shall adopt written procedures for protecting the integrity and security of the system that allows access to elevator key boxes. Procedures shall include, but not be limited to:

1. A definition of authorized uses and users of the system;
2. Specific means of access to the system;
3. Protection against unauthorized or uncontrolled use of master keys or master key systems;
4. Secure storage systems for master keys;
5. The recording of individuals having access to the master key, including date, time and location of access; and
6. Protections and safeguards against unauthorized duplication of master keys or access systems.